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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,788	03/21/2006	Sacha Felder	3560	3406
7590 05/10/2010 STRIKER, STRIKER & STENBY 103 EAST NECK ROAD HUNTINGTON, NY 11743				
EXAMINER DENTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
05/10/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,788

Applicant(s)

FELDER ET AL.

Examiner

Clark F. Dexter

Art Unit

3724

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. The amendment filed on February 2, 2010 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 22, 23, 25, 27-29 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice, pn 3,949,817 in view of Meyer et al., pn 4,707,921.

Regarding claim 22 and the claims dependent therefrom, Rice discloses a tool with every structural limitation of the claimed invention including:

a first operating switch (e.g., 5) for turning the power tool on and off, a second operating switch (e.g., 7) for turning the power tool on and off, and means (e.g., 26) for mechanically coupling the first operating switch and the second operating switch, said coupling means including a flexible connecting element (e.g., 26), and a slanted surface (e.g., formed by and within 27) over which the flexible element is flexibly guided with a surface contact therebetween;

[claim 23] wherein the slanted surface is curved, and the flexible connecting element is configured so that it is curved and flexibly guided on the slanted surface (e.g., see the structure of 27 located below numeral 27 as viewed in Fig. 1);

[claim 25] wherein the power tool includes a side handle (e.g., 23) and a top handle (e.g., 31), the first operating switch being located on the side handle, and the second operating switch being located on the top handle;

[claim 28] wherein the power tool includes the slanted surface (e.g., as stated in claim 18, formed by and within 27) for the connecting element;

[claim 29] wherein the first operating switch is connected with an adjusting slide (e.g., 6), the adjusting slide converting a motion of the first operating switch into an electrical variable;

[claim 31] wherein the first operating switch and the second operating switch are each directly fastened to the flexible connecting element;

[claim 33] wherein engagement of either one of the first and second operating switches will turn on the tool;

[claim 34] wherein the flexible connecting element is curved and defines an obtuse angle (e.g., see the structure of 27 located below numeral 27 as viewed in Fig. 1).

Regarding claim 35 and the claim dependent therefrom, Rice discloses a tool with almost every structural limitation of the claimed invention including:

a first operating switch (e.g., 5) for turning the power tool on and off, a second operating switch (e.g., 7) for turning the power tool on and off, and means for mechanically coupling the first operating switch and the second operating switch, said coupling means including a flexible connecting element (e.g., 26) which is formed as a sheet element, and a ramp (e.g., formed by and within 27) over which the flexible connecting element is flexibly guided with a surface contact therebetween;

[claim 36] wherein the ramp is curved and the flexible connecting element is configured so that it is curved (e.g., see the structure of 27 located below numeral 27 as viewed in Fig. 1) and flexibly guided on the ramp.

Rice lacks the flexible connecting element being formed as a sheet element as set forth in claims 22 and 35 and further including the specifics of the sheet element as set forth in claims 27 and 32 as follows:

[claim 27] wherein the connecting element is made of sheet metal; and

[claim 32] wherein the flexible connecting element has a top end and a lower end and a first flat sheet surface and a second flat sheet surface, and wherein the first operating switch is fastened to the lower end, the second operating switch is connected

to the top end, and both of the operating switches are fastened to the same flat sheet surface.

However, the Examiner takes Official notice that such force transmitting elements are old and well known in the art and provide various well known benefits including increased stability and durability. As one example, Meyer et al. discloses such a force transmitting element in the form of sheet element; more specifically, flexible strip 36. Further, the Examiner takes Official notice that it is well within the skill level of one having ordinary skill in the art to make the sheet element from any of the well known and readily available stock materials such as metal. Therefore, it would have been obvious to one having ordinary skill in the art to provide any one of the well known types of force transmitting elements including the sheet element disclosed by Meyer et al. to gain the well known benefits including those described above.

Regarding claims 24, 26 and 30, Rice discloses a tool with almost every structural limitation of the claimed invention but further lacks:

[claim 24] wherein the first operating switch and the second operating switch are positioned essentially at right angles to each other;

[claim 26 (from 25)] wherein the side handle and the top handle transition into each other, thereby essentially forming a right angle, the first operating switch and the second operating switch being located on opposing surfaces within this angle; and

[claim 30] wherein the power tool is a jigsaw;

Regarding claims 24 and 26, the Examiner takes Official notice that it is old and well known in the art to orient handles at angles with respect to one another for various

well known benefits including ergonomic benefits. Therefore, it would have been obvious to one having ordinary skill in the art to provide the extension handle of Rice at a right angle with respect to the chain saw handle (i.e., to provide the extension handle oriented horizontally rather than vertically) to gain the well known benefits including that described above.

Regarding claim 30, it would have been obvious to one having ordinary skill in the art to provide the disclosed extension handle on any of the various known hand tools including a jigsaw to gain the benefits taught by Rice including remote operation and control of the tool.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. It is respectfully submitted that the Examiner's position is not that the prior art is the same as the disclosed invention, but rather that the prior art teaches or fairly suggests the claimed invention. For example, applicant's invention as disclosed includes a sheet element that extends along and is connected to first and second switches inside a single housing. Such a configuration is not taught or suggested by Rice and it appears that such a limitation would distinguish over Rice.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
May 7, 2010